

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MELVIN CADE, #1575347

VS.

DIRECTOR, TDCJ

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CIVIL ACTION NO. 4:19cv917


ORDER OF DISMISSAL

This case was referred to United States Magistrate Judge Kimberly C. Priest Johnson, who issued a Report and Recommendation. (Dkt. # 12). The Magistrate Judge concluded in the Report and Recommendation that because Petitioner's claims of newly discovered evidence were, or could have been, raised in Petitioner's previous § 2254 petition, the instant petition is successive. The Magistrate Judge found that this Court does not have subject matter jurisdiction to consider Petitioner's current petition unless he receives permission from the Fifth Circuit to file a successive petition. 28 U.S.C. § 2244(3)(A). *See In re Epps*, 127 F.3d 364 (5th Cir. 1997). Petitioner has not shown he has permission from the Fifth Circuit.

The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. No objections having been timely filed, the Court concludes the findings and conclusions of the Magistrate Judge are correct, and adopts the same as the findings and conclusions of the Court.

Accordingly, it is **ORDERED** the petition for writ of habeas corpus (#1) is **DISMISSED** without prejudice. It is further **ORDERED** all motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 12th day of August, 2020.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE